

## **Item SPR05-03 Response Form**

**Title:**    **Appellate Procedure: Sealed Records** (amend Cal. Rules of Court, rule 12.5)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: \_\_\_\_\_

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**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

Please **write** or **fax** or **respond using the Internet** to:

**Address:** Ms. Romunda Price,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102  
**Fax:** (415) 865-7664                      **Attention:** Romunda Price  
**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

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| <b>DEADLINE FOR COMMENT:</b> 5:00 p.m., Monday, June 20, 2005 |
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.  
All comments will become part of the public record of the council's action..*

### Invitation to Comment (SPR05-03)

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| Title      | <b>Appellate Procedure: Sealed Records</b> (amend Cal. Rules of Court, rule 12.5)   |
| Summary    | This proposal would amend rule 12.5 to clarify that the sealed records procedures established by that rule apply to all writ proceedings in the appellate courts.   |
| Source     | Appellate Advisory Committee<br>Justice Joyce L. Kennard, Chair   |
| Staff      | Heather Anderson, Committee Counsel, 415-865-7691,<br>heather.anderson@jud.ca.gov   |
| Discussion | <p>Rule 12.5 of the California Rules of Court establishes the procedures for the handling of sealed records in appellate court proceedings. Currently, rule 12.5 provides that it applies to “sealed records and records proposed to be sealed on appeal and in original proceedings <i>under rule 56</i>” (emphasis added). Because rule 56 provides that it does not apply to “applications for a writ of habeas corpus, except as provided in rule 56.5, or to petitions for review pursuant to rules 57, 58, and 59,” an argument can be made that the sealed records procedures in rule 12.5 do not apply in the case of applications for writs of habeas corpus or petitions for review under rules 57–59.</p> <p>The intent of the exemption set forth in rule 56 appears to have been to relieve parties in these particular proceedings from the obligation to comply with the form and format requirements generally applicable to original proceedings in the appellate courts. It seems appropriate, however, that sealed records in these proceedings be handled in the same manner as such records in other appellate court proceedings. The Appellate Advisory Committee therefore proposes that rule 12.5 be amended to clarify that the sealed records procedures apply in all writ proceedings in the appellate courts.</p> |
|            | Attachment  |

Rule 12.5 of the California Rules of Court would be amended, effective January 1, 2006, to read:

**Rule 12.5. Sealed records**

**(a) Application**

This rule applies to sealed records and records proposed to be sealed on appeal and in original proceedings ~~under rule 56~~, but does not apply to records required to be kept confidential by law.

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